

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1244

AN ACT to amend the Indiana Code concerning education and local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-42-2-1, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to a county that has money in a fund **and has not surrendered custody of the fund to the treasurer of state under section 4.5 of this chapter, or a predecessor law.**

SECTION 2. IC 20-42-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) **A county council may adopt a resolution to:**

- (1) elect to surrender the custody of the fund or any part of the fund; and**
- (2) order the board of county commissioners, the county auditor, and the county treasurer to take all steps necessary to surrender the custody of the fund or part of the fund that is to be surrendered.**

If the county council adopts a resolution under this section, the amount of money designated by the resolution distributed to and held in trust by the county is to be transferred to the treasurer of state over a period not to exceed twenty (20) years. A county council may elect whether the county shall surrender all or any part of the fund. If the county retains custody of any money in the fund, the county shall loan the money as otherwise provided by law.

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(b) Within ten (10) days after the passage of the resolution by a county council of a county electing to surrender the custody of the fund or part of the fund, the county auditor shall prepare and file with the board of commissioners of the county a report showing the following:

- (1) The total amount of the fund that has been entrusted to and is held in trust by the county.
- (2) The total amount of the fund that is loaned as provided by law.
- (3) The total amount of the fund, if any, loaned to the county and which loans are unpaid.
- (4) The total amount of the fund held in cash in the possession and custody of the county and that is not loaned.
- (5) A separate schedule of past due loans. The schedule must show the unpaid balance of principal and the amount of delinquent interest due and unpaid on each delinquent loan.

(c) The board of county commissioners shall examine the reports, and, if found correct, the board of county commissioners shall order:

- (1) that the report be entered on its records; and
- (2) the county auditor to draw the county auditor's warrant, payable to the treasurer of state, for the amount of the fund that is not loaned and is held in cash in the custody and possession of the county as shown by the report.

The county auditor shall forward the warrants to the auditor of state together with a certified copy of the report. The county auditor shall also forward with the payment a certified copy of the resolution of the county council electing to surrender the custody of the fund or any part of the fund.

(d) After passage by the county council of a resolution electing to surrender the custody of the fund or any part of the fund, no part of the fund up to the amount designated in the resolution that is not surrendered to the treasurer of state and is in the custody of the county may be loaned by the county or by any official of the county. Except as provided in this subsection, all outstanding loans of the fund not part of the amount retained by the county at the time of the passage of the resolution shall be collected when due. Any loan that comes due and payable after the passage of the resolution may be renewed for one (1) additional five (5) year period, on the application of the person owing the loan as provided by law. However, a loan that is more than one (1) year delinquent in payment of principal or interest at the time of the passage of the

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resolution of the county council may not be renewed.

(e) The maximum time to surrender money that the county designates in the resolution is for a period not to exceed twenty (20) years. On:

(1) May 1 or November 1 immediately after the passage of the resolution electing to surrender the fund or any part of the fund; and

(2) each May 1 and November 1 thereafter;

all the money collected and on hand up to the amount designated in the resolution that belongs to the fund that is to be surrendered shall be paid to the treasurer of state. If at the time for a semiannual payment the amount collected and paid to the treasurer of state when added to the amounts previously paid to the treasurer of state is less than the result determined by multiplying two and one-half percent (2.5%) of the amount in the resolution by the number of semiannual payments that have occurred after the passage of the resolution, the county auditor shall draw the county auditor's warrant on the general fund of the county for an amount sufficient to pay to the treasurer of state the difference between the amount paid and the amount equal to the result of multiplying two and one-half percent (2.5%) of the amount designated in the resolution by the number of semiannual payments that have occurred after the passage of the resolution.

(f) The board of county commissioners shall, in its annual budget estimate, include an estimate of the amount necessary to make the payments from the county general fund as required by this section, and the county council shall appropriate the amount of the estimate.

(g) A county is subrogated to all the rights and remedies of the state with respect to loans made from a fund held in trust by the county to the extent of any and all payments made from the county general fund under this chapter.

(h) If a county elects to transfer custody of the fund or any part of the fund to the treasurer of state, the treasurer of state shall ensure that the principal of the fund belonging to any congressional township or a part of a congressional township shall never be diminished in amount.

(i) If a county elects to transfer custody of the fund or any part of the fund to the treasurer of state, the treasurer of state shall take steps to ensure that the income of the fund belonging to any congressional township or a part of a congressional township may not be:

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(1) diminished by an apportionment; or

(2) diverted or distributed to another township.

SECTION 3. IC 20-42-2-6, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The payment of annual interest must be full and complete every year. The payment must appear in the county auditor's **or treasurer of state's** report to the state superintendent. The state superintendent shall, at any time when the state superintendent discovers that there is a deficit in the amount collected, direct the attention of the board of county commissioners and the county auditor to the fact. The board of commissioners shall provide for the deficit in the commissioners' respective counties.

SECTION 4. IC 20-42-2-7, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The county auditor of each county **or the treasurer of state** shall, semiannually, on the second Monday of July and on the last Monday in January make apportionment of the amount of the congressional township school revenue belonging to each school corporation. The apportionment shall be paid to each school corporation's treasurer.

SECTION 5. IC 20-42-2-8, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The county auditor **or treasurer of state** shall report the amount apportioned to the state superintendent, verified by affidavit.

SECTION 6. IC 36-9-23-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 33. (a) An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (1), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:

(A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the

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penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection (e), the county auditor of each county shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next May installment of property taxes. ~~In a county having a consolidated city, the delinquent fees, penalties, service charges, and recording fees are due not later than the due date of the next installment of property~~

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~~taxes.~~ The county treasurer shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(h) After certification of liens under subsection (e), the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor. This subsection does not apply to a county containing a consolidated city.

(i) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the municipality. The county treasurer shall retain the service charges and certification fees that have been collected, and shall deposit them in the county general fund.

(k) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 32(d) of this chapter, files a verified demand with the county auditor.

(l) A board may write off a fee or penalty under subsection (a) that is for less than forty dollars (\$40).

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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